

1 **SECTION 763.** 971.14 (1r) (c) of the statutes is repealed.

2 **SECTION 764.** 971.14 (2) (title) of the statutes is repealed.

3 **SECTION 765.** 971.14 (2) (a) of the statutes is renumbered 975.32 (1) and
4 amended to read:

5 975.32 (1) If an examination of a defendant is required under s. 975.31, the
6 court shall order an examination into competency. The court ~~shall~~ may order the
7 department to conduct the examination or may appoint one or more examiners
8 having the specialized knowledge determined by the court to be appropriate to
9 examine and report upon the condition of the defendant. ~~If an inpatient examination~~
10 ~~is determined by the court to be necessary, the defendant may be committed to a~~
11 ~~suitable mental health facility for the examination period specified in par. (c), which~~
12 ~~shall be deemed days spent in custody under s. 973.155. If the examination is to be~~
13 ~~conducted by the department, the court shall order the individual to the facility~~
14 ~~designated by the department~~ the court orders the department to conduct an
15 examination, the department may select the examiner.

16 **SECTION 766.** 971.14 (2) (am) of the statutes is repealed.

17 **SECTION 767.** 971.14 (2) (b) of the statutes is renumbered 975.32 (3) and
18 amended to read:

19 975.32 (3) If the defendant has been released ~~on bail~~ from custody, the court
20 shall order an outpatient examination, except that the court may not order an
21 involuntary inpatient examination unless if the defendant consents to an inpatient
22 examination, the defendant fails to cooperate in the an outpatient examination, or
23 the examiner informs the court that inpatient observation is necessary for an
24 adequate examination.

1 **SECTION 768.** 971.14 (2) (c) of the statutes is renumbered 975.32 (6) (a) and
2 amended to read:

3 975.32 (6) (a) ~~Inpatient examinations shall be completed and the report of~~
4 ~~examination filed~~ An examiner ordered to conduct an inpatient examination under
5 this section shall complete the examination and file a report of the examination
6 within 15 days after the examination is ordered or ~~as specified in par. (am),~~
7 ~~whichever is applicable, unless, for good cause, the facility or examiner appointed by~~
8 ~~the court cannot complete the examination within this period and requests an~~
9 ~~extension. In that case, if the department is the examiner, within 15 days after the~~
10 ~~defendant arrives at the inpatient facility. If the examiner cannot complete the~~
11 ~~examination within 15 days and requests an extension, the court may for good cause~~
12 allow one 15-day extension of the examination period. ~~Outpatient examinations~~
13 ~~shall be completed and the report of examination filed~~

14 (b) An examiner ordered to conduct an outpatient examination under this
15 section shall complete the examination and file a report of the examination within
16 30 days after the examination is ordered.

17 **SECTION 769.** 971.14 (2) (d) of the statutes is renumbered 975.32 (5) and
18 amended to read:

19 975.32 (5) ~~If the court orders that the examination be conducted on an inpatient~~
20 ~~basis~~ a defendant in custody is subject to an inpatient examination ordered under
21 this section, the sheriff of the county in which the court that ordered the examination
22 is located shall transport any the defendant not free on bail to the examining facility
23 where the examination will take place within a reasonable time after the
24 examination is ordered and shall transport return the defendant to the jail within
25 a reasonable time after the examination is completed. The examining facility shall

1 notify the sheriff and county the department of community programs ~~of for~~ the
2 ~~county in which the court is located receive notice from the examining facility that~~
3 when the examination has been is completed.

4 **SECTION 770.** 971.14 (2) (e) of the statutes is renumbered 975.32 (8) and
5 amended to read:

6 975.32 (8) ~~The~~ An examiner shall personally observe and examine the
7 defendant and shall have access to ~~his or her~~ the defendant's past ~~or~~ and present
8 treatment records, as defined under s. 51.30 (1) (b).

9 **SECTION 771.** 971.14 (2) (f) of the statutes is renumbered 975.32 (9).

10 **SECTION 772.** 971.14 (2) (g) of the statutes is renumbered 975.32 (11) and
11 amended to read:

12 975.32 (11) The defendant also may be examined for competency purposes at
13 any stage of the competency proceedings by ~~physicians or other experts~~ designated
14 by the court or chosen by the defendant or ~~by~~ the district attorney, who shall be
15 permitted reasonable access to the defendant for purposes of the examination. Any
16 party who intends to call an expert designated or chosen under this subsection as a
17 witness shall furnish a copy of the expert's report to the opposing party within a
18 reasonable period of time.

19 **SECTION 773.** 971.14 (3) (intro.) of the statutes is renumbered 975.33 (1) (intro.)
20 and amended to read:

21 975.33 (1) ~~REPORT~~ CONTENTS. (intro.) ~~The~~ Each court-appointed examiner
22 shall submit to the court a written report ~~which shall include~~ that includes all of the
23 following:

24 **SECTION 774.** 971.14 (3) (a) and (b) of the statutes are renumbered 975.33 (1)
25 (a) and (b).

1 **SECTION 775.** 971.14 (3) (c) of the statutes is renumbered 975.33 (1) (c) and
2 amended to read:

3 975.33 (1) (c) The examiner's opinion regarding the defendant's present mental
4 capacity to understand the criminal proceedings and assist in his or her defense.

5 **SECTION 776.** 971.14 (3) (d) of the statutes is renumbered 975.33 (1) (d) (intro.)
6 and amended to read:

7 975.33 (1) (d) (intro.) If the examiner reports that the defendant lacks
8 competency, the is not competent to proceed, all of the following:

9 1. The examiner's opinion regarding the likelihood that the defendant, if
10 provided treatment, may be restored to competency become competent within the
11 time maximum period permitted under sub. (5) (a). ~~The examiner shall provide an~~
12 of commitment, as defined in s. 975.34 (6) (a).

13 2. The examiner's opinion as to whether ~~the defendant's~~ treatment should
14 ~~occur~~ be provided in an inpatient facility designated by the department, in a
15 community-based treatment program under the supervision of the department, or
16 in a jail or a locked unit of a facility that has entered into a voluntary agreement with
17 the state to serve as a location for treatment.

18 **SECTION 777.** 971.14 (3) (dm) (intro.) of the statutes is renumbered 975.33 (1)
19 (e) and amended to read:

20 975.33 (1) (e) If sufficient information is available to the examiner to reach an
21 opinion, the examiner's opinion on whether the defendant needs medication or
22 treatment and whether the defendant is not competent to refuse medication or
23 treatment. ~~The defendant is not competent to refuse medication or treatment if,~~
24 ~~because of mental illness, developmental disability, alcoholism or drug dependence,~~
25 ~~and after the advantages and disadvantages of and alternatives to accepting the~~

1 particular medication or treatment have been explained to the defendant, one of the
2 following is true:

3 **SECTION 778.** 971.14 (3) (dm) 1. and 2. of the statutes are repealed.

4 **SECTION 779.** 971.14 (3) (e) of the statutes is renumbered 975.33 (1) (g) and
5 amended to read:

6 975.33 (1) (g) The facts and reasoning, in reasonable detail, upon which the
7 required findings and opinions ~~under pars. (b) to (dm)~~ are based.

8 **SECTION 780.** 971.14 (4) (title) of the statutes is repealed.

9 **SECTION 781.** 971.14 (4) (a) of the statutes is renumbered 975.33 (2) and
10 amended to read:

11 975.33 (2) DISCLOSURE. The court shall cause copies of the examiner's report
12 to be delivered ~~forthwith~~ immediately to the district attorney and ~~the defense~~
13 ~~counsel, to the defendant's attorney~~ or the defendant personally if not represented
14 by counsel. Upon the request of the sheriff or jailer charged with care and control
15 of the jail in which the defendant is being held pending or during a trial or sentencing
16 proceeding, the court shall cause a copy of the report to be delivered to the sheriff or
17 jailer. The sheriff or jailer may provide a copy of the report to the person who is
18 responsible for maintaining medical records for inmates of the jail, or to a nurse
19 licensed under ch. 441, or to a physician or physician assistant licensed under subch.
20 II of ch. 448 who is a health care provider for the defendant or who is responsible for
21 providing health care services to inmates of the jail. The report shall not be otherwise
22 disclosed ~~prior to before~~ the hearing under ~~this subsection~~ s. 975.34.

23 **SECTION 782.** 971.14 (4) (b) of the statutes is repealed.

24 **SECTION 783.** 971.14 (4) (c) of the statutes is repealed.

25 **SECTION 784.** 971.14 (4) (d) of the statutes is repealed.

1 **SECTION 785.** 971.14 (5) (title) of the statutes is repealed.

2 **SECTION 786.** 971.14 (5) (a) 1., 2. and 3. of the statutes are renumbered 975.34
3 (7) (a), (b) and (c) and amended to read:

4 975.34 (7) (a) ~~If the court determines that the defendant is not competent but~~
5 ~~is likely to become competent within the period specified in this paragraph if~~
6 ~~provided with appropriate treatment sub. (6) (b) 3. applies,~~ the court shall suspend
7 ~~the proceedings and~~ commit the defendant to the custody of the department for
8 treatment for a period not to exceed ~~12 months, or the maximum sentence specified~~
9 ~~for the most serious offense with which the defendant is charged, whichever is less~~
10 the maximum period of commitment, as defined in sub. (6) (a). The department shall
11 determine whether the defendant will receive treatment in an appropriate
12 institution designated by the department, while under the supervision of the
13 department in a community-based treatment program under contract with the
14 department, or in a jail or a locked unit of a facility that has entered into a voluntary
15 agreement with the state to serve as a location for treatment. The sheriff shall
16 transport the defendant to the institution, program, jail, or facility, as determined
17 by the department.

18 (b) If, under ~~subd. 1. par. (a),~~ the department commences ~~services~~ treatment
19 to a defendant in jail or in a locked unit, the department shall, as soon as possible,
20 transfer the defendant to an institution or provide ~~services~~ treatment to the
21 defendant in a community-based treatment program consistent with this
22 subsection. The court shall order a defendant who is committed under this
23 subsection to undergo periodic reexaminations as provided in s. 975.36.

24 (c) Days spent in commitment under this ~~paragraph~~ subsection are considered
25 days spent in custody under s. 973.155. The court shall make and enter a specific

1 finding of the number of days spent in custody and include that finding in the
2 commitment order.

3 **SECTION 787.** 971.14 (5) (a) 4. of the statutes is renumbered 975.34 (7) (d) and
4 amended to read:

5 975.34 (7) (d) A defendant under the supervision of the department placed
6 under this paragraph subsection in a community-based treatment program is in the
7 custody and control of the department, subject to any conditions set by the
8 department. If the department believes that the defendant under supervision has
9 violated a condition, or that permitting the defendant to remain in the community
10 jeopardizes the safety of the defendant or another person, the department may
11 designate an institution at which the treatment shall occur and may request that the
12 court reinstate the proceedings, order the defendant transported by the sheriff to the
13 designated institution, and ~~suspend proceedings~~ commit the defendant to custody
14 consistent with subd. 1. par. (a).

15 **SECTION 788.** 971.14 (5) (am) of the statutes is renumbered 975.35 and
16 amended to read:

17 **975.35 Post-commitment motion on capacity to refuse medication or**
18 **treatment.** ~~If the a~~ defendant committed under s. 975.34 (7) is not subject to a court
19 order ~~determining~~ finding the defendant ~~to be~~ not competent to refuse medication or
20 treatment ~~for the defendant's mental condition~~ and if the department determines
21 that the defendant should be subject to such a court order, the department may file
22 a motion with the court, ~~with notice to the counsel for the defendant, the defendant,~~
23 ~~and the district attorney, a motion for a hearing, under the standard specified in sub.~~
24 ~~(3) (dm), on to determine~~ whether the defendant is not competent to refuse
25 medication or treatment. ~~A report on which the motion is based shall accompany~~

1 ~~the motion and notice of motion and shall include a statement~~ The department shall
2 submit with the motion a report that is based on an examination of the defendant by
3 a licensed physician, that is signed by a licensed physician, and that asserts that the
4 defendant needs medication or treatment and that the defendant is not competent
5 to refuse medication or treatment, ~~based on an examination of the defendant by a~~
6 ~~licensed physician.~~ The department shall provide notice of any motion filed under
7 this section, and a copy of the report submitted with the motion, to the defendant,
8 the defendant's attorney, and the district attorney. Within 10 days after the
9 department files a motion is filed under this ~~paragraph~~ section, the court shall, ~~under~~
10 ~~the procedures and standards specified in sub. (4) (b),~~ hold a hearing without a jury
11 to determine whether the defendant's competency defendant is not competent to
12 refuse medication or treatment ~~for the defendant's mental condition.~~ At the hearing,
13 the department must prove by clear and convincing evidence that the defendant is
14 not competent to refuse medication or treatment. At the request of the defendant,
15 the defendant's ~~counsel~~ attorney, or the district attorney, the hearing may be
16 postponed, but in no case may the postponed hearing be held more than 20 days after
17 a motion is filed under this ~~paragraph~~ section.

18 **SECTION 789.** 971.14 (5) (b) of the statutes is renumbered 975.36 (1) and
19 amended to read:

20 975.36 (1) REEXAMINATION TIME LIMITS. ~~The defendant~~ department shall be
21 periodically ~~reexamined by the department examiners.~~ ~~Written reports of~~
22 ~~examination shall be furnished to the court~~ reexamine a defendant who remains
23 committed under s. 975.34 (7), and at 3 months after commitment, 6 months after
24 commitment, and 9 months after commitment and within 30 days prior to before the
25 expiration of the commitment. ~~Each order shall submit a written report to the court~~

1 on the defendant's mental condition. In each report, the department shall indicate
2 either that whether the defendant has become competent, that the defendant
3 remains incompetent but that attainment of competency to proceed and, if the
4 defendant has not become competent, whether the defendant is likely to become
5 competent within the remaining commitment period, or that the defendant has not
6 made such progress that attainment of competency is likely within the remaining
7 commitment period. Any report indicating such a lack of sufficient progress shall
8 include the examiner's opinion regarding whether the defendant is mentally ill,
9 alcoholic, drug dependent, developmentally disabled or infirm because of aging or
10 other like incapacities. If the defendant is not likely to become competent within the
11 remaining commitment period, the department shall also report whether the
12 defendant meets the criteria for commitment under ch. 51 or 55. The court shall
13 schedule a date certain for the review of the reports. If the department indicates in
14 the report that the defendant has become competent or that the defendant is not
15 competent and is unlikely to become competent within the remaining commitment
16 period, the court shall hold the review within 14 days after the court receives the
17 report.

18 **SECTION 790.** 971.14 (5) (c) of the statutes is renumbered 975.36 (3) and
19 amended to read:

20 975.36 (3) DETERMINING COMPETENCY Upon receiving a report under par. (b)
21 indicating the defendant has regained competency or is not competent and unlikely
22 to become competent in the remaining commitment period, the court shall hold a
23 hearing within 14 days of receipt of the report and sub. (1) or (2), the court shall
24 proceed under sub. (4) s. 975.34. If the court determines that the defendant has
25 become competent, the defendant shall be discharged from commitment and the

1 criminal proceeding shall be resumed. If the court determines that the defendant is
2 making sufficient progress toward becoming competent, the commitment shall
3 continue.

4 **SECTION 791.** 971.14 (5) (d) of the statutes is renumbered 975.36 (5) and
5 amended to read:

6 975.36 (5) MEDICATION TO MAINTAIN COMPETENCY. If the defendant is receiving
7 medication, the court may make appropriate orders for the continued administration
8 of the medication in order to maintain the competence of the defendant for the
9 duration of the proceedings.

10 (6) SUBSEQUENT INCOMPETENCY. If a defendant who has been restored to
11 competency thereafter again becomes incompetent, the maximum commitment
12 period under ~~par. (a) s. 975.34 (6)~~ shall be 18 months minus the days spent in previous
13 commitments under ~~this subsection s. 975.34~~, or 12 months, whichever is less.

14 **SECTION 792.** 971.14 (6) (title) of the statutes is repealed.

15 **SECTION 793.** 971.14 (6) (a) of the statutes is repealed.

16 **SECTION 794.** 971.14 (6) (b) of the statutes is renumbered 975.38 (1) and
17 amended to read:

18 975.38 (1) When the court finds under s. 975.34 (6) (b) 1. that a defendant is
19 not likely to become competent, or discharges a defendant from commitment under
20 ~~par. (a) s. 975.36 (4)~~, it may order that the defendant be taken immediately into
21 custody by a law enforcement official and promptly delivered to a facility specified
22 in s. 51.15 (2), an approved public treatment facility under s. 51.45 (2) (c), or an
23 appropriate medical or protective placement facility. Thereafter, detention of the
24 defendant shall be governed by s. 51.15, 51.45 (11), or 55.135, as appropriate. The
25 district attorney or corporation counsel may prepare a statement ~~meeting that~~

1 satisfies the requirements of s. 51.15 (4) or (5), 51.45 (13) (a), or 55.135 based on the
2 allegations of the criminal complaint and the evidence in the case. ~~This statement~~
3 ~~shall be given~~ If an attorney prepares such a statement, he or she shall provide a copy
4 of the statement to the director of the facility to which the defendant is delivered and
5 ~~filed~~ file the statement with the branch of ~~circuit~~ court assigned to exercise criminal
6 jurisdiction in the county in which the criminal charges are pending, ~~where it shall.~~
7 The filed statement shall suffice, without corroboration by other petitioners, as a
8 petition for commitment under s. 51.20 or 51.45 (13) or a petition for protective
9 placement under s. 55.075. ~~This section~~ subsection does not restrict the power of the
10 branch of ~~circuit~~ court in which the ~~petition~~ statement is filed to transfer the matter
11 to the branch of ~~circuit~~ court assigned to exercise jurisdiction under ch. 51 in the
12 county. Days spent in commitment or protective placement pursuant to a petition
13 under this ~~paragraph shall not be deemed~~ subsection do not count as days spent in
14 custody under s. 973.155.

15 **SECTION 795.** 971.14 (6) (c) of the statutes is renumbered 975.38 (2) and
16 amended to read:

17 975.38 (2) If a ~~person~~ defendant is committed under s. 51.20 pursuant to a
18 petition under ~~par. (b)~~ sub. (1), the county department under s. 51.42 or 51.437 to
19 whose care and custody the ~~person~~ defendant is committed shall notify the court
20 ~~which that released the defendant under s. 975.34 (6) (b) 1. or discharged the person~~
21 defendant under ~~par. (a)~~ s. 975.36 (4), the district attorney for the county in which
22 that court is located, and the ~~person's~~ defendant's attorney of record in the ~~prior~~
23 suspended criminal proceeding at least 14 days ~~prior to~~ before transferring or
24 discharging the defendant from an inpatient treatment facility and at least 14 days
25 ~~prior to~~ before the expiration of the order of commitment or any subsequent

1 consecutive order, unless the department or county department or the department
2 of health services has applied for an extension of the order.

3 **SECTION 796.** 971.14 (6) (d) of the statutes is renumbered 975.38 (3) and
4 amended to read:

5 975.38 (3) Counsel who ~~have received~~ receive notice under ~~par. (e)~~ sub. (2) or
6 who otherwise obtain information that a defendant released under s. 975.34 (6) (b)
7 1. or discharged under par. (a) s. 975.36 (4) may have become competent to proceed
8 in a criminal case may move the court to order that the defendant undergo a
9 competency examination under ~~sub. (2)~~ s. 975.32. If the court so orders, ~~a report shall~~
10 ~~be filed under sub. (3) and a hearing held under sub. (4)~~ orders an examination under
11 s. 975.32, the examiner shall file a report under s. 975.33 and the court shall proceed
12 under s. 975.34. If the court determines that the defendant is competent to proceed,
13 the court shall resume the criminal proceeding ~~shall be resumed~~. If the court
14 determines that the defendant is not competent to proceed, it shall release ~~him or her~~
15 the defendant but may impose such reasonable nonmonetary conditions as ~~will on~~
16 the defendant to protect the public and enable the court and district attorney to
17 discover whether the ~~person~~ defendant subsequently becomes competent.

18 **SECTION 797.** 971.15 of the statutes is renumbered 975.50, and 975.50 (2), as
19 renumbered, is amended to read:

20 975.50 (2) As used in this chapter, the ~~terms~~ term “mental disease or defect”
21 ~~do~~ does not include an abnormality manifested only by repeated criminal or
22 otherwise antisocial conduct.

23 **SECTION 798.** 971.16 (title) of the statutes is renumbered 975.51 (title).

24 **SECTION 799.** 971.16 (1) of the statutes is repealed.

1 **SECTION 800.** 971.16 (2) of the statutes is renumbered 975.51 (1) and amended
2 to read:

3 975.51 (1) If ~~the a~~ defendant ~~has entered~~ enters a plea of not guilty by reason
4 of mental disease or defect or there is other reason to believe that the defendant has
5 a mental disease or defect of the defendant will otherwise that will become an issue
6 in the case, the court may appoint at least one ~~physician or at least one psychologist,~~
7 ~~but~~ and not more than 3 physicians or psychologists or a combination thereof, to
8 examine the defendant and to testify at the trial. If the court appoints a physician
9 or psychologist under this section, the court shall inform the jury, if there is one, that
10 the court appointed the physician or psychologist and shall permit both parties to
11 cross-examine the physician or psychologist.

12 ~~(2) (a)~~ The ~~compensation of the physicians or psychologists shall be fixed by the~~
13 ~~court and paid by court shall set the fee for an examination conducted by a physician~~
14 ~~or psychologist appointed under sub. (1) and the county, upon the order of the court,~~
15 ~~shall pay the fee as part of the costs of the action. The receipt by any~~

16 ~~(b)~~ A physician or psychologist ~~summoned under this section of any other~~
17 ~~compensation than that so fixed by the court and paid by the county, or the offer or~~
18 ~~promise by any person to pay such other compensation, is unlawful and may not~~
19 ~~accept compensation other than the fee under par. (a), for conducting an examination~~
20 ~~under sub. (1) and no person may offer or promise to pay the physician or psychologist~~
21 ~~other compensation for the examination. Violation of this paragraph is punishable~~
22 ~~as contempt of court. The fact that the physician or psychologist has been appointed~~
23 ~~by the court shall be made known to the jury and the physician or psychologist shall~~
24 ~~be subject to cross-examination by both parties.~~

1 **SECTION 801.** 971.16 (3) (intro.) of the statutes is renumbered 975.51 (3) and
2 amended to read:

3 975.51 (3) Not less than 10 days before trial, or at ~~any other time that the court~~
4 ~~directs a different time if directed by the court~~, any physician or psychologist
5 appointed under sub. (2) (1) shall file a written report of his or her examination of
6 the defendant with the judge, ~~who court, and the court~~ shall cause copies of the report
7 to be transmitted to the district attorney and to ~~counsel for the defendant~~. The
8 ~~contents of the report shall be confidential until the physician or psychologist has~~
9 ~~testified or at the completion of the trial~~ the defendant's attorney. The report shall
10 contain an the physician's or psychologist's opinion regarding the ability of the
11 defendant to appreciate the wrongfulness of the defendant's conduct or to conform
12 the defendant's conduct with the requirements of law at the time of the commission
13 of the criminal offense charged and, if sufficient information is available to the
14 physician or psychologist to reach an opinion, his or her opinion on whether the
15 defendant needs medication or treatment and whether the defendant is not
16 competent to refuse medication or treatment. The ~~defendant is not competent to~~
17 ~~refuse medication or treatment if, because of mental illness, developmental~~
18 ~~disability, alcoholism or drug dependence, and after the advantages and~~
19 ~~disadvantages of and alternatives to accepting the particular medication or~~
20 ~~treatment have been explained to the defendant, one of the following is true: contents~~
21 of the report shall be confidential until the physician or psychologist has testified or
22 until the completion of the trial.

23 **SECTION 802.** 971.16 (3) (a) of the statutes is repealed.

24 **SECTION 803.** 971.16 (3) (b) of the statutes is repealed.

1 **SECTION 804.** 971.16 (4) of the statutes is renumbered 975.51 (4) (a) and
2 amended to read:

3 975.51 (4) (a) If the defendant wishes to be examined by a physician,
4 psychologist, or other expert of his or her own choice, the examiner shall be permitted
5 to have reasonable access to the defendant for the purposes of examination. No
6 testimony An examiner selected by the defendant may not testify at trial regarding
7 the mental condition of the defendant ~~shall be received from a physician,~~
8 ~~psychologist or expert witness summoned by the defendant unless not less than the~~
9 examiner provides a report of his or her examination of the defendant to the district
10 attorney at least 15 days before trial ~~a report of the examination has been~~
11 ~~transmitted to the district attorney and unless the prosecution state~~ has been
12 afforded an opportunity, if it requests one within a reasonable time before trial, to
13 examine and observe the defendant ~~if the opportunity has been seasonably~~
14 ~~demande~~. ~~The state may summon a physician, psychologist or other expert to~~
15 ~~testify, but that witness shall not give testimony unless not less than 15 days before~~
16 ~~trial a written report of his or her examination of the defendant has been transmitted~~
17 ~~to counsel for the defendant.~~

18 **SECTION 805.** 971.16 (5) of the statutes is renumbered 975.51 (5) (a) and
19 amended to read:

20 975.51 (5) (a) If Except as provided in par. (b), if a physician, psychologist, or
21 other expert who has examined the defendant testifies ~~concerning~~ regarding the
22 defendant's mental condition, he or she shall be permitted to make a statement as
23 to the nature of his or her examination, his or her diagnosis of the mental condition
24 of the defendant at the time of the commission of the offense charged, his or her
25 opinion as to the ability of the defendant to appreciate the wrongfulness of the

1 defendant's conduct or to conform to the requirements of law and, if sufficient
2 information is available to the physician, psychologist, or expert to reach an opinion,
3 his or her opinion on whether the defendant needs medication or treatment and
4 whether the defendant is not competent to refuse medication or treatment ~~for the~~
5 ~~defendant's mental condition. Testimony concerning the defendant's need for~~
6 ~~medication or treatment and competence to refuse medication or treatment may not~~
7 ~~be presented before the jury that is determining the ability of the defendant to~~
8 ~~appreciate the wrongfulness of his or her conduct or to conform his or her conduct~~
9 ~~with the requirements of law at the time of the commission of the criminal offense~~
10 ~~charged. The physician, psychologist, or other expert shall be permitted to make an~~
11 ~~explanation reasonably serving~~ that reasonably serves to clarify his or her diagnosis
12 and opinion and may be cross-examined as to any matter bearing on his or her
13 competency or credibility or the validity of his or her diagnosis or opinion.

14 **SECTION 806.** 971.16 (6) of the statutes is renumbered 975.51 (6) and amended
15 to read:

16 975.51 (6) Nothing in this section ~~shall require the attendance at the trial of~~
17 ~~any~~ requires a physician, psychologist, or other expert witness to attend the trial for
18 any purpose other than ~~the giving of~~ to give his or her testimony.

19 **SECTION 807.** 971.165 (title) of the statutes is renumbered 975.52 (title).

20 **SECTION 808.** 971.165 (1) of the statutes is renumbered 975.52 (2), and 975.52
21 (2) (intro.) and (c) (intro.), 2. and 3., as renumbered, are amended to read:

22 975.52 (2) JOINED WITH A PLEA OF NOT GUILTY (intro.) If a defendant ~~couples joins~~
23 a plea of not guilty with a plea of not guilty by reason of mental disease or defect, all
24 of the following apply:

1 (c) (intro.) If both pleas are tried to a jury, that jury shall be the same, except
2 that all of the following apply:

3 2. If the jury is discharged prior to reaching a verdict on the 2nd plea, the
4 defendant shall not ~~solely~~ on that account be entitled to a redetermination of the first
5 plea and a different jury of 12 may be selected to determine the 2nd plea only.

6 3. If an appellate court reverses a judgment as to the 2nd plea but not as to the
7 first plea and remands for further proceedings, or if the ~~trial~~ circuit court vacates the
8 judgment as to the 2nd plea but not as to the first plea, the 2nd plea may be
9 determined by a different jury selected for this purpose.

10 **SECTION 809.** 971.165 (2) of the statutes is renumbered 975.52 (3) and amended
11 to read:

12 975.52 (3) INFORMING JURY OF EFFECT OF VERDICT. If the plea of not guilty by
13 reason of mental disease or defect is tried to a jury, the court shall inform the jury
14 that the effect of a verdict of not guilty by reason of mental disease or defect is that,
15 in lieu of criminal sentence or probation, the defendant will be committed to the
16 custody of the department of ~~health services~~ and ~~will be~~ placed in an appropriate
17 institution unless the court determines that the defendant would not pose a danger
18 to himself or herself or to others if released under conditions ordered by the court.
19 ~~No A~~ A verdict on the a plea of not guilty by reason of mental disease or defect ~~may be~~
20 that is tried by a jury is not valid or and may not be received unless agreed to by at
21 least five-sixths of the jurors.

22 **SECTION 810.** 971.165 (3) (a) of the statutes is renumbered 975.52 (4) (a) and
23 amended to read:

1 975.52 (4) (a) If a defendant is not found not guilty by reason of mental disease
2 or defect, the court shall ~~enter~~ grant a judgment of conviction ~~and shall either impose~~
3 ~~or withhold sentence~~ under s. ~~972.13 (2)~~ 972.28 (1).

4 **SECTION 811.** 971.165 (3) (b) of the statutes is renumbered 975.52 (4) (b) and
5 amended to read:

6 975.52 (4) (b) If a defendant is found not guilty by reason of mental disease or
7 defect, the court shall enter a judgment of not guilty by reason of mental disease or
8 defect. ~~The court shall thereupon and~~ proceed under s. ~~971.17~~ 975.55. A judgment
9 ~~entered under this paragraph is interlocutory to the~~ commitment order entered
10 under s. ~~971.17~~ and reviewable upon appeal therefrom 975.57 is the final order in
11 the case and is appealable as a matter of right under s. 808.03 (1). Upon appeal of
12 the commitment order, all properly preserved issues may be raised, including those
13 relating to the guilt phase of the trial.

14 **SECTION 812.** 971.17 (title) of the statutes is renumbered 975.57 (title).

15 **SECTION 813.** 971.17 (1) of the statutes is renumbered 975.57 (2), and 975.57
16 (2) (a) to (d), as renumbered, are amended to read:

17 975.57 (2) (a) *Felonies committed before July 30, 2002.* Except as provided in
18 par. (c), when a ~~defendant~~ person is found not guilty by reason of mental disease or
19 ~~mental~~ defect of a felony committed before July 30, 2002, the court shall commit the
20 person to the department of ~~health services~~ for a specified period not exceeding
21 two-thirds of the maximum term of imprisonment that could be imposed under s.
22 973.15 (2) against an offender convicted of the same felony or felonies, including
23 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~
24 ~~to the credit provisions of s. 973.155.~~

1 (b) *Felonies committed on or after July 30, 2002.* Except as provided in par. (c),
2 when a ~~defendant~~ person is found not guilty by reason of mental disease or ~~mental~~
3 defect of a felony committed on or after July 30, 2002, the court shall commit the
4 person to the department of ~~health services~~ for a specified period not exceeding the
5 maximum term of confinement in prison, plus imprisonment authorized by any
6 applicable penalty enhancement statutes, that could be imposed under ss. 973.01 (2)
7 and 973.15 (2) (a) on an offender convicted of the same felony, ~~plus imprisonment~~
8 ~~authorized by any applicable penalty enhancement statutes, subject to the credit~~
9 ~~provisions of s. 973.155 or felonies.~~

10 (c) *Felonies punishable by life imprisonment.* If a ~~defendant~~ person is found not
11 guilty by reason of mental disease or ~~mental~~ defect of a felony that is punishable by
12 life imprisonment, the commitment period specified by the court may be life, subject
13 to termination under ~~sub. (5)~~ s. 975.60.

14 (d) *Misdemeanors.* When a ~~defendant~~ person is found not guilty by reason of
15 mental disease or ~~mental~~ defect of a misdemeanor, the court shall commit the person
16 to the department of ~~health services~~ for a specified period not exceeding two-thirds
17 of the maximum term of imprisonment that could be imposed under s. 973.15 (2)
18 against an offender convicted of the same misdemeanor or misdemeanors, including
19 imprisonment authorized by any applicable penalty enhancement statutes, ~~subject~~
20 ~~to the credit provisions of s. 973.155.~~

21 **SECTION 814.** 971.17 (1g) of the statutes is renumbered 975.53 (1) and amended
22 to read:

23 975.53 (1) NOTICE OF RESTRICTION ON FIREARM POSSESSION. If the ~~defendant~~
24 ~~under sub. (1)~~ a person is found not guilty of a felony by reason of mental disease or

1 defect, the court shall inform the ~~defendant~~ person of the requirements and penalties
2 under s. 941.29.

3 **SECTION 815.** 971.17 (1h) of the statutes is renumbered 975.53 (2) and amended
4 to read:

5 **975.53 (2)** ~~NOTICE OF RESTRICTIONS ON POSSESSION~~ POSSESSION OF BODY ARMOR.
6 If ~~the defendant under sub. (1)~~ a person is found not guilty of a violent felony, as
7 defined in s. 941.291 (1) (b), by reason of mental disease or defect, the court shall
8 inform the ~~defendant~~ person of the requirements and penalties under s. 941.291.

9 **SECTION 816.** 971.17 (1j) (title) of the statutes is repealed.

10 **SECTION 817.** 971.17 (1j) (a) of the statutes is renumbered 975.54 (1) (a).

11 **SECTION 818.** 971.17 (1j) (b) of the statutes is renumbered 975.54 (1) (b) and
12 amended to read:

13 **975.54 (1) (b)** If a person is found not guilty by reason of mental disease or defect
14 of a serious sex offense, the court may, in addition to committing the person to the
15 department of ~~health services~~ under ~~sub. (1)~~ s. 975.57, place the person on lifetime
16 supervision under s. 939.615 if notice concerning lifetime supervision was given to
17 the person under s. 973.125 and if the court determines that lifetime supervision of
18 the person is necessary to protect the public.

19 **SECTION 819.** 971.17 (1m) (title) of the statutes is repealed.

20 **SECTION 820.** 971.17 (1m) (a) of the statutes is renumbered 975.54 (2) and
21 amended to read:

22 **975.54 (2)** If ~~the defendant under sub. (1)~~ a person is found not guilty by reason
23 of mental disease or defect for a felony or a violation of s. 165.765 (1), 940.225 (3m),
24 944.20, or 948.10, the court shall require the person to provide a biological specimen
25 to the state crime laboratories for deoxyribonucleic acid analysis.

1 **SECTION 821.** 971.17 (1m) (b) 1m. a. of the statutes is renumbered 975.54 (3)

2 (a) 1. and amended to read:

3 975.54 (3) (a) 1. Except as provided in ~~subd. 2m. par. (b)~~, if ~~the defendant under~~
4 ~~sub. (1)~~ a person is found not guilty by reason of mental disease or defect for any
5 violation, or for the solicitation, conspiracy, or attempt to commit any violation, of ch.
6 940, 944, or 948 or s. 942.08 or 942.09, or ss. 943.01 to 943.15, the court may require
7 the ~~defendant~~ person to comply with the reporting requirements under s. 301.45 if
8 the court determines that the underlying conduct was sexually motivated, as defined
9 in s. 980.01 (5), and that it would be in the interest of public protection to have the
10 ~~defendant~~ person report under s. 301.45.

11 **SECTION 822.** 971.17 (1m) (b) 1m. b. of the statutes is renumbered 975.54 (3)

12 (a) 2. and amended to read:

13 975.54 (3) (a) 2. If a court under ~~subd. 1m. a. 1.~~ 1. orders a person to comply with
14 the reporting requirements under s. 301.45 in connection with a finding of not guilty
15 by reason of mental disease or defect for a violation, or the solicitation, conspiracy,
16 or attempt to commit a violation, of s. 942.09 and the person was under the age of 21
17 when he or she committed the offense, the court may provide that upon termination
18 of the commitment order under ~~sub. (5)~~ s. 975.60 or expiration of the order under ~~sub.~~
19 ~~(6)~~ s. 975.61 the person be released from the requirement to comply with the
20 reporting requirements under s. 301.45.

21 **SECTION 823.** 971.17 (1m) (b) 2m. of the statutes is renumbered 975.54 (3) (b)

22 and amended to read:

23 975.54 (3) (b) If ~~the defendant under sub. (1)~~ a person is found not guilty by
24 reason of mental disease or defect for a violation, or for the solicitation, conspiracy,
25 or attempt to commit a violation, of s. 940.22 (2), 940.225 (1), (2), or (3), 944.06, 948.02

(1) or (2), 948.025, 948.05, 948.051, 948.055, 948.06, 948.07, 948.075, 948.08, 948.085, 948.095, 948.11 (2) (a) or (am), 948.12, 948.13, or 948.30, of s. 940.302 (2) if s. 940.302 (2) (a) 1. b. applies, or of s. 940.30 or 940.31 if the victim was a minor and the ~~defendant~~ person was not the victim's parent, the court shall require the ~~defendant~~ person to comply with the reporting requirements under s. 301.45 unless the court determines, after a hearing on a motion made by the ~~defendant~~ person, that the ~~defendant~~ person is not required to comply under s. 301.45 (1m).

SECTION 824. 971.17 (1m) (b) 3. of the statutes is renumbered 975.54 (3) (c), and 975.54 (3) (c) (intro.), 1., 2. and 5., as renumbered, are amended to read:

975.54 (3) (c) (intro.) In determining under ~~subd. 1m. a. par. (a) 1.~~ whether it would be in the interest of public protection to have the ~~defendant~~ person report under s. 301.45, the court may consider any of the following:

1. The ages, at the time of the violation, of the ~~defendant~~ person and the victim of the violation.

2. The relationship between the ~~defendant~~ person and the victim of the violation.

5. The probability that the ~~defendant~~ person will commit other violations in the future.

SECTION 825. 971.17 (1m) (b) 4. of the statutes is renumbered 975.54 (3) (d) and amended to read:

975.54 (3) (d) If the court orders a ~~defendant~~ person to comply with the reporting requirements under s. 301.45, the court may order the ~~defendant~~ person to continue to comply with the reporting requirements until his or her death.

SECTION 826. 971.17 (1m) (b) 5. of the statutes is renumbered 975.54 (3) (e) and amended to read:

1 975.54 (3) (e) If the court orders a ~~defendant~~ person to comply with the
2 reporting requirements under s. 301.45, the clerk ~~of the court in which the order is~~
3 ~~entered~~ shall promptly forward a copy of the order to the department of corrections.
4 If the finding of not guilty by reason of mental disease or defect on which the order
5 is based is reversed, set aside, or vacated, the clerk ~~of the court~~ shall promptly
6 forward to the department of corrections a certificate stating that the finding has
7 been reversed, set aside, or vacated.

8 **SECTION 827.** 971.17 (2) (title) of the statutes is repealed.

9 **SECTION 828.** 971.17 (2) (a) of the statutes is renumbered 975.55 and amended
10 to read:

11 **975.55 Disposition of person found not guilty by reason of mental**
12 **disease or defect.** ~~The court shall enter an initial commitment order under this~~
13 ~~section pursuant to a hearing held as~~ As soon as practicable after the entering a
14 ~~judgment of finding a person not guilty by reason of mental disease or mental defect~~
15 ~~is entered, the court shall hold a dispositional hearing and commit the person to the~~
16 ~~department as provided in s. 975.57.~~ If the court lacks sufficient information to make
17 ~~the determination required by sub. (3) enter a commitment order under s. 975.57~~
18 ~~immediately after trial, it may adjourn the dispositional hearing, enter an interim~~
19 ~~order committing the person to the department, and order the department of health~~
20 ~~services to conduct a predisposition investigation using the procedure in~~ under s.
21 ~~972.15 973.004, or order a supplementary mental examination or both, to assist the~~
22 ~~court in framing the commitment order of the person.~~ If the court enters an interim
23 ~~commitment order, the person is subject to any conditions set by the court and to the~~
24 ~~rules of the department.~~ commitment order, the person is subject to any conditions set by the court and to the
 rules of the department.

1 **SECTION 829.** 971.17 (2) (b) of the statutes is renumbered 975.56 (1) and
2 amended to read:

3 975.56 (1) If ~~a~~ the court orders a supplementary mental examination is
4 ~~ordered under par. (a) s. 975.55~~, the court may appoint one or more examiners having
5 the specialized knowledge determined by the court to be appropriate to ~~examine and~~
6 ~~report upon the condition of the person. In lieu thereof, conduct an outpatient~~
7 examination of the person or the court may commit the person to an appropriate
8 mental health facility for ~~the period specified in par. (e), which shall~~ an inpatient
9 examination. Days spent in a mental health facility for an inpatient examination
10 under this subsection count as days spent in custody under s. 973.155.

11 **SECTION 830.** 971.17 (2) (c) of the statutes is renumbered 975.56 (3) (a) and
12 amended to read:

13 975.56 (3) (a) An examiner ordered to conduct an inpatient examination under
14 this section shall complete ~~an inpatient~~ the examination ~~under par. (b)~~ and file the
15 a report of the examination within 15 days after the examination is ordered ~~unless,~~
16 ~~for good cause,.~~ If the examiner cannot complete the examination within 15 days and
17 requests an extension. In that case, the court may for good cause allow one 15-day
18 extension of the examination period.

19 (b) An examiner ordered to conduct an outpatient examination under this
20 section shall complete ~~an outpatient~~ the examination and file ~~the~~ a report of the
21 examination within ~~15~~ 30 days after the examination is ordered.

22 **SECTION 831.** 971.17 (2) (d) of the statutes is renumbered 975.56 (4) and
23 amended to read:

24 975.56 (4) If the court orders an inpatient examination under ~~par. (b)~~ sub. (1),
25 it shall arrange for the transportation of the person to the examining facility within

1 a reasonable time after the examination is ordered and for the person to be returned
2 to the jail or court within a reasonable time after the examination has been
3 completed.

4 **SECTION 832.** 971.17 (2) (e) of the statutes is renumbered 975.56 (2) and
5 amended to read:

6 975.56 (2) The examiner ~~appointed under par. (b)~~ ordered to conduct an
7 examination under this section shall personally observe and examine the person.
8 The examiner ~~or facility~~ shall have access to the person's past or present treatment
9 records, as defined in s. 51.30 (1) (b), and patient health care records, as provided
10 under s. 146.82 (2) (c). If the examiner believes that the person is appropriate for
11 conditional release, the examiner shall report on the type of treatment and services
12 that the person may need while in the community on conditional release.

13 **SECTION 833.** 971.17 (2) (f) of the statutes is renumbered 975.56 (5) and
14 amended to read:

15 975.56 (5) ~~The costs of an examination ordered under par. (a) shall be paid by~~
16 ~~the county upon~~ Upon the order of the court as part of the costs of the action, the
17 county shall pay the costs of an examination ordered under this section.

18 **SECTION 834.** 971.17 (2) (g) of the statutes is renumbered 975.56 (6) and
19 amended to read:

20 975.56 (6) Within 10 days after the examiner's report is filed under ~~par. (e)~~ sub.
21 (3), the court shall hold a hearing to determine ~~whether the terms of the~~ commitment
22 ~~shall take the form of institutional care or conditional release order under s. 975.57.~~

23 **SECTION 835.** 971.17 (3) (title) of the statutes is repealed.

24 **SECTION 836.** 971.17 (3) (a) of the statutes is renumbered 975.57 (1) and
25 amended to read:

1 975.57 (1) COMMITMENT ORDER. An order for commitment under this section
2 shall specify either institutional care or conditional release. The court shall order
3 institutional care if it finds by clear and convincing evidence that ~~conditional release~~
4 ~~of the person, if conditionally released,~~ would pose a significant risk of causing bodily
5 harm to himself or herself or to others or of causing serious property damage. If the
6 court does not make this finding, it shall order conditional release. In determining
7 whether commitment shall be for institutional care or conditional release, the court
8 may consider, without limitation because of enumeration, the nature and
9 circumstances of the crime, the person's mental history and present mental
10 condition, where the person will live, how the person will support himself or herself,
11 what arrangements are available to ensure that the person has access to and will
12 take necessary medication, and what arrangements are possible for treatment
13 beyond medication.

14 **SECTION 837.** 971.17 (3) (b) of the statutes is renumbered 975.57 (5) (a) and
15 amended to read:

16 975.57 (5) (a) If the state proves by clear and convincing evidence that the
17 person is not competent to refuse medication or treatment ~~for the person's mental~~
18 ~~condition, under the standard specified in s. 971.16 (3),~~ the court shall issue, as part
19 of the commitment order, an order that the person is not competent to refuse
20 medication or treatment ~~for the person's mental condition~~ and that whoever
21 administers the medication or treatment to the person shall observe appropriate
22 medical standards.

23 **SECTION 838.** 971.17 (3) (c) of the statutes is renumbered 975.57 (5) (b) and
24 amended to read:

1 975.57 (5) (b) ~~If the court order specifies institutional care, the department of~~
2 ~~health services shall place the person in an institution under s. 51.37 (3) that the~~
3 ~~department considers appropriate in light of the rehabilitative services required by~~
4 ~~the person and the protection of public safety. If the a person placed in an institution~~
5 ~~under this section is not subject to a court order determining finding the person to~~
6 ~~be not competent to refuse medication or treatment for the person's mental condition~~
7 ~~and if the institution in which the person is placed department determines that the~~
8 ~~person should be subject to such a court an order, the institution department may~~
9 ~~file a motion with the court, with notice to the person and his or her counsel and the~~
10 ~~district attorney, a motion as provided in s. 975.35 for a hearing, under the standard~~
11 ~~specified in s. 971.16 (3), on to determine whether the person is not competent to~~
12 ~~refuse medication or treatment. A report on which the motion is based shall~~
13 ~~accompany the motion and notice of motion and shall include a statement signed by~~
14 ~~a licensed physician that asserts that the person needs medication or treatment and~~
15 ~~that the person is not competent to refuse medication or treatment, based on an~~
16 ~~examination of the person by a licensed physician. Within 10 days after a motion is~~
17 ~~filed under this paragraph, the court shall determine the person's competency to~~
18 ~~refuse medication or treatment for the person's mental condition. At the request of~~
19 ~~the person, his or her counsel attorney, or the district attorney, the hearing may be~~
20 ~~postponed, but in no case may the postponed hearing shall be held more than within~~
21 ~~20 days after a motion is filed under this paragraph. If the district attorney, the~~
22 ~~person, and his or her counsel attorney waive their respective opportunities to~~
23 ~~present other evidence on the issue, the court shall determine the person's~~
24 ~~competency to refuse medication or treatment on the basis of the report~~
25 ~~accompanying the motion. In the absence of these waivers, the court shall hold an~~

1 evidentiary hearing on the issue. If the state proves by ~~evidence that is~~ clear and
2 convincing evidence that the person is not competent to refuse medication or
3 treatment, ~~under the standard specified in s. 971.16 (3), the court shall order find~~
4 that the person is not competent to refuse medication or treatment ~~for the person's~~
5 ~~mental condition and order~~ that whoever administers the medication or treatment
6 to the person shall observe appropriate medical standards.

7 **SECTION 839.** 971.17 (3) (d) of the statutes is renumbered 975.57 (4) (a) and
8 amended to read:

9 975.57 (4) (a) If the court finds that the person is appropriate for conditional
10 release, ~~the court shall notify the department of health services. The department of~~
11 ~~health services~~ and the county department under s. 51.42 in the county of residence
12 of the person shall prepare a plan that identifies the treatment and services, if any,
13 that the person will receive in the community. The plan shall address the person's
14 need, if any, for supervision, medication, community support services, residential
15 services, vocational services, and alcohol or other drug abuse treatment. The
16 ~~department of health services may contract with a county department, under s. 51.42~~
17 ~~(3) (aw) 1. d., with another public agency or with a private agency to provide the~~
18 ~~treatment and services identified in the plan. The plan shall specify who will be~~
19 responsible for providing the treatment and services identified in the plan. The ~~plan~~
20 department and the county department shall ~~be presented~~ present the plan to the
21 court for its approval within ~~21~~ 14 days after the court ~~finding~~ finds that the person
22 is appropriate for conditional release, unless the department, county department,
23 ~~department of health services~~ and person to be released request additional time to
24 develop the plan. ~~If the~~ The county department ~~of the person's county of residence~~
25 ~~declines to prepare a plan, the department of health services may arrange for~~

1 another county to prepare the plan if ~~that county agrees to prepare the plan and if~~
2 the individual will be living in ~~that~~ another county.

3 **SECTION 840.** 971.17 (3) (e) of the statutes is renumbered 975.58 and amended
4 to read:

5 **975.58 Petition for revocation of conditional release.** ~~An order for~~
6 ~~conditional release places the person in the custody and control of the department~~
7 ~~of health services. A conditionally released person is subject to the conditions set by~~
8 ~~the court and to the rules of the department of health services. Before a person is~~
9 ~~conditionally released by the court under this subsection, the court shall so notify the~~
10 ~~municipal police department and county sheriff for the area where the person will~~
11 ~~be residing. The notification requirement under this paragraph does not apply if a~~
12 ~~municipal department or county sheriff submits to the court a written statement~~
13 ~~waiving the right to be notified. If the department of health services alleges that a~~
14 ~~released person~~ conditionally released under s. 975.57 (4) or 975.59 ~~has violated any~~
15 ~~condition or rule~~ of release, or that the safety of the person or others requires that
16 conditional release be revoked, he or she may be taken into custody under the rules
17 of revocation of release, the department may detain the person in a facility specified
18 in s. 51.15 (2) or in a jail. The department ~~of health services~~ shall submit a statement
19 showing probable cause ~~of~~ for the detention and a petition to revoke the order for
20 conditional release to the committing court and the regional office of the state public
21 defender responsible for handling cases in the county where the committing court is
22 located within 72 hours after the detention, excluding Saturdays, Sundays, and legal
23 holidays. The court shall hear the petition within 30 days, after detention unless the
24 hearing or time deadline is waived by the detained person. ~~Pending the revocation~~
25 ~~hearing, the department of health services may detain the person in a jail or in a~~

1 ~~hospital, center or facility specified by s. 51.15 (2). The~~ Before the hearing, the
2 department shall provide the detained person written notice of the claimed violation
3 and a summary of the evidence against the person. The department may withdraw
4 the petition without the consent of the court. If the department withdraws the
5 petition, the person shall be immediately released from detention. At a hearing
6 under this section, the state has the burden of proving by clear and convincing
7 evidence that ~~any the person violated a rule or condition of release has been violated,~~
8 ~~or that the safety of the person or others requires that conditional release be revoked~~
9 revocation of release. ~~If the court determines after hearing that any the person~~
10 violated a rule or condition of release has been violated, or that the safety of the
11 person or others requires that conditional release be revoked revocation of release,
12 it may revoke the order for conditional release and order that the released person be
13 placed in an appropriate institution under s. 51.37 (3) until the expiration of the
14 commitment or until again conditionally released under this section s. 975.59. If the
15 court determines that the person violated a rule or condition of release, it may modify
16 the order for conditional release. The court shall set forth on the record the evidence
17 relied upon and reasons for the revocation or modification of conditional release.

18 **SECTION 841.** 971.17 (4) (title) of the statutes is renumbered 975.59 (title).

19 **SECTION 842.** 971.17 (4) (a) of the statutes is renumbered 975.59 (1) and
20 amended to read:

21 **975.59 (1) PETITION.** ~~Any person who is committed for institutional care to the~~
22 department and institutionalized under s. 975.57 or 975.58 may petition the
23 committing court to modify its the commitment order by authorizing conditional
24 release if at least 6 months have elapsed since the initial commitment order was
25 entered, the most recent release petition for conditional release, if any, was denied

1 or withdrawn, and the most recent order for conditional release, if any, was revoked.
2 The director of the facility at which the person is placed may file a petition under this
3 ~~paragraph~~ subsection on the person's behalf at any time.

4 **SECTION 843.** 971.17 (4) (b) of the statutes is renumbered 975.59 (2) and
5 amended to read:

6 975.59 (2) SERVICE; APPOINTMENT OF COUNSEL. If the person files a timely
7 petition under sub. (1) without counsel, the court shall serve a copy of the petition
8 on the district attorney and, subject to ~~sub. (7) (b)~~ s. 975.63 (2), refer the matter to
9 the state public defender for determination of indigency and appointment of counsel
10 under s. 977.05 (4) (j). ~~If the a person petitions through counsel, his or her files a~~
11 petition under sub. (1) with the assistance of an attorney, the person's attorney shall
12 serve a copy of the petition on the district attorney.

13 **SECTION 844.** 971.17 (4) (c) of the statutes is renumbered 975.59 (3) and
14 amended to read:

15 975.59 (3) EXAMINATION. Within 20 days after receipt of the petition under sub.
16 (1), the court shall appoint one or more examiners having the specialized knowledge
17 determined by the court to be appropriate, ~~who shall to~~ examine the person and
18 furnish a written report of the examination to the court within 30 days after
19 appointment. The examiners shall have reasonable access to the person for purposes
20 of examination and to the person's past and present treatment records, as defined in
21 s. 51.30 (1) (b), and patient health care records, as provided under s. 146.82 (2) (c).
22 If ~~any such~~ an examiner believes that the person is appropriate for conditional
23 release, the examiner shall report on the type of treatment and services that the
24 person may need while in the community on conditional release.

1 **SECTION 845.** 971.17 (4) (d) of the statutes is renumbered 975.59 (4) and
2 amended to read:

3 975.59 (4) HEARING. The court, ~~without a jury,~~ shall hear the petition within
4 30 days after the report of the court-appointed examiner is filed with the court,
5 unless the ~~petitioner~~ person waives this time limit. Expenses of proceedings under
6 this subsection shall be paid as provided under s. 51.20 (18). The court shall grant
7 the petition unless it finds by clear and convincing evidence that the person would
8 pose a significant risk of causing bodily harm to himself or herself or to others or of
9 causing serious property damage if conditionally released. In making this
10 determination, the court may consider, ~~without limitation because of enumeration,~~
11 ~~the nature and circumstances of the crime, the person's mental history and present~~
12 ~~mental condition, where the person will live, how the person will support himself or~~
13 ~~herself, what arrangements are available to ensure that the person has access to and~~
14 ~~will take necessary medication, and what arrangements are possible for treatment~~
15 ~~beyond medication~~ the factors under s. 975.57 (1).

16 **SECTION 846.** 971.17 (4) (e) of the statutes is renumbered 975.59 (5) (a), and
17 975.59 (5) (a) 1., as renumbered, is amended to read:

18 975.59 (5) (a) 1. If the court finds that the person is appropriate for conditional
19 release, the court shall notify the department of health services. ~~Subject and, subject~~
20 ~~to subd. subds. 2. and 3., the department of health services and the county~~
21 ~~department under s. 51.42 in the county of residence of the person shall prepare a~~
22 ~~plan that identifies the treatment and services, if any, that the person will receive~~
23 ~~in the community. The plan shall address the person's need, if any, for supervision,~~
24 ~~medication, community support services, residential services, vocational services,~~
25 ~~and alcohol or other drug abuse treatment. The department of health services may~~

1 ~~contract with a county department, under s. 51.42 (3) (aw) 1. d., with another public~~
2 ~~agency or with a private agency to provide the treatment and services identified in~~
3 ~~the plan.~~ The plan shall specify who will be responsible for providing the treatment
4 and services identified in the plan. ~~The plan shall be presented~~ department and the
5 county department shall present the plan to the court for its approval within ~~60~~ 14
6 days after the court finding that the person is appropriate for conditional release,
7 unless the department, county department, ~~department of health services~~ and
8 person to be released request additional time to develop the plan.

9 **SECTION 847.** 971.17 (4m) of the statutes is repealed.

10 **SECTION 848.** 971.17 (5) (title) of the statutes is renumbered 975.60 (title).

11 **SECTION 849.** 971.17 (5) of the statutes is renumbered 975.60 (1) and amended
12 to read:

13 975.60 (1) A person on conditional release, or the department of health services
14 on his or her behalf, may petition the committing court to terminate ~~the an~~ order of
15 commitment if at least 6 months have elapsed since the person was last placed on
16 conditional release and since the most recent petition under this section, if any, was
17 denied.

18 (2) ~~If the a~~ person files a timely petition under sub. (1) without counsel, the
19 court shall serve a copy of the petition on the district attorney and, subject to ~~sub. (7)~~
20 ~~(b)~~ s. 975.63 (2), refer the matter to the state public defender for determination of
21 indigency and appointment of counsel under s. 977.05 (4) (j). If the person petitions
22 ~~through counsel, his or her~~ files a petition under sub. (1) with the assistance of an
23 attorney, the person's attorney shall serve a copy of the petition on the district
24 attorney.

1 ~~(3) The court shall rule on the petition shall be determined as promptly as~~
2 ~~practicable by the court without a jury.~~

3 (4) The court shall terminate the order of commitment unless it finds by clear
4 and convincing evidence that further supervision is necessary to prevent a
5 significant risk of bodily harm to the person or to others or of serious property
6 damage. In making this determination, the court may consider, without limitation
7 because of enumeration, the nature and circumstances of the crime, the person's
8 mental history and current mental condition, the person's behavior while on
9 conditional release, and plans for the person's living arrangements, support,
10 treatment, and other required services after termination of the commitment order.
11 ~~A petition under this subsection may not be filed unless at least 6 months have~~
12 ~~elapsed since the person was last placed on conditional release or since the most~~
13 ~~recent petition under this subsection was denied.~~

14 **SECTION 850.** 971.17 (6) of the statutes is renumbered 975.61, and 975.61 (1)
15 (intro.) and (2), as renumbered, are amended to read:

16 975.61 (1) (intro.) At least 60 days prior to the expiration of a commitment order
17 issued under sub. (1) s. 975.57, the department of health services shall notify all of
18 the following of the expiration of the order:

19 (2) Upon the expiration of a commitment order ~~under sub. (1)~~, the court shall
20 discharge the person, subject to the right of the department of health services or the
21 appropriate county department under s. 51.60 or 51.437 to proceed against the
22 person under ch. 51 or 55. ~~If none of those departments proceeds against the person~~
23 ~~under ch. 51 or 55, the court may order the proceeding.~~

24 **SECTION 851.** 971.17 (6m) (title) of the statutes is repealed.

1 **SECTION 852.** 971.17 (6m) (a) (intro.) of the statutes is renumbered 975.62 (1)
2 (intro.) and amended to read:

3 975.62 (1) (intro.) In this ~~subsection~~ section:

4 **SECTION 853.** 971.17 (6m) (a) 1. of the statutes is repealed.

5 **SECTION 854.** 971.17 (6m) (a) 2. of the statutes is renumbered 975.62 (1) (a).

6 **SECTION 855.** 971.17 (6m) (a) 3. of the statutes is renumbered 975.62 (1) (b).

7 **SECTION 856.** 971.17 (6m) (b) of the statutes is repealed.

8 **SECTION 857.** 971.17 (6m) (c) of the statutes is repealed.

9 **SECTION 858.** 971.17 (6m) (d) of the statutes is renumbered 975.62 (5) and
10 amended to read:

11 975.62 (5) The department of health services shall design and prepare cards
12 for persons specified in par. (b) 1. a victim's representative to send to the department.
13 The cards shall have space for these persons a victim's representative to provide their
14 names his or her name and addresses address, the name of the applicable defendant
15 person committed under this subchapter, and any other information the department
16 determines is necessary. The department shall provide the cards, without charge,
17 to district attorneys. District attorneys shall provide the cards, without charge, to
18 ~~persons specified in par. (b) 1.~~ These persons victims' representatives. A victim's
19 representative may send completed cards to the department. ~~All departmental~~
20 ~~records or~~ Records and portions of records of the department that relate to mailing
21 addresses of ~~these persons~~ a victim's representative are not subject to inspection or
22 copying under s. 19.35 (1), except as needed to comply with a request under ~~sub. (4m)~~
23 ~~(d) or~~ s. 301.46 (3) (d).

24 **SECTION 859.** 971.17 (7) (title) of the statutes is renumbered 975.63 (title).

1 **SECTION 860.** 971.17 (7) (a) of the statutes is renumbered 975.63 (1) and
2 amended to read:

3 975.63 (1) The committing court shall conduct all hearings under ~~this section~~
4 ss. 975.55 to 975.61. The committed person shall be given reasonable notice of the
5 time and place of each ~~such~~ hearing. The court may designate additional persons to
6 receive these notices.

7 **SECTION 861.** 971.17 (7) (b) of the statutes is renumbered 975.63 (2), and 975.63
8 (2) (intro.), as renumbered, is amended to read:

9 975.63 (2) (intro.) Without limitation by enumeration, at any hearing under
10 ~~this section~~ ss. 975.55 to 975.61, the ~~person~~ subject of the hearing has the right to:

11 **SECTION 862.** 971.17 (7) (c) of the statutes is renumbered 975.63 (4) and
12 amended to read:

13 975.63 (4) If ~~the~~ a person who is subject to proceedings under ss. 975.55 to
14 975.61 wishes to be examined by a physician, ~~as defined in s. 971.16 (1) (a), or a~~
15 psychologist, ~~as defined in s. 971.16 (1) (b),~~ or other expert of his or her choice, the
16 procedure under s. ~~971.16~~ 975.51 (4) shall apply. Upon motion of an indigent
17 person, the court shall appoint a qualified and available examiner for the person at
18 public expense. Examiners for the person or the district attorney shall have
19 reasonable access to the person for purposes of examination, and to the person's past
20 and present treatment records, as defined in s. 51.30 (1) (b), and patient health care
21 records, as provided under s. 146.82 (2) (c).

22 **SECTION 863.** 971.17 (7) (d) of the statutes is repealed.

23 **SECTION 864.** 971.17 (7m) of the statutes is renumbered 975.64.

24 **SECTION 865.** 971.17 (8) of the statutes is renumbered 975.49 and amended to
25 read:

1 **975.49 Applicability of ss. 975.57 to 975.64.** This section ~~subchapter~~
2 governs the commitment, release, and discharge of persons adjudicated not guilty by
3 reason of mental disease or mental defect for offenses committed on or after January
4 1, 1991. The commitment, release, and discharge of persons adjudicated not guilty
5 by reason of mental disease or mental defect for offenses committed prior to January
6 1, 1991, ~~shall be~~ are governed by s. 971.17, 1987 stats., as affected by 1989 Wisconsin
7 Act 31.

****NOTE: Applicability sections should appear before the substantive sections for easier readability and identification. The .49 is not ideal since it is cleaner to start a subchapter with, say, .50, so if you would prefer to renumber the current .50 to make room, please let me know.

8 **SECTION 866.** 971.18 of the statutes is renumbered 975.21 and amended to
9 read:

10 **975.21 Inadmissibility of statements made for purposes of**
11 **examination.** A statement made by a person ~~subjected~~ who is subject to a
12 psychiatric examination or to treatment pursuant to ~~under~~ this chapter that is made
13 for the purposes purpose of such the examination or treatment ~~shall~~ is not be
14 admissible ~~in~~ evidence against the person in any criminal proceeding on any issue
15 other than that of the person's mental condition.

16 **SECTION 867.** 971.19 of the statutes is renumbered 970.14, and 970.14 (title),
17 (1), (2), (3), (4), (5), (6), (8), (9) (intro.), (10), (11) and (12), as renumbered, are amended
18 to read:

19 **970.14 Place of trial Venue.** (1) ~~Criminal actions~~ Trials shall be tried in the
20 county where the crime was committed, except as ~~otherwise~~ provided in this section
21 or in s. 971.09.

22 (2) ~~Where 2 or more acts are requisite to the commission of any offense~~ crime
23 requires 2 or more acts, the trial may be in any county in which any of such acts

1 occurred. In a case involving a charge of conspiracy under s. 939.31, the trial may
2 be in any county in which a conspiratorial act took place.

3 (3) Where ~~an offense~~ a crime is committed on or within one-fourth of a mile of
4 the boundary of 2 or more counties, the ~~defendant may be tried~~ trial may be in any
5 of such counties.

6 (4) If a crime is committed in, on, by use of, or against any vehicle passing
7 through or within this state, and it cannot readily be determined in which county the
8 crime was committed, the ~~defendant may be tried~~ trial may be in any county ~~through~~
9 ~~which such vehicle has passed or in the county where the defendant's travel~~
10 ~~commenced or terminated~~ in which the vehicle has traveled.

11 (5) If the act causing death is in one county and the death ensues in another,
12 the ~~defendant may be tried~~ trial may be in either county. If neither location can
13 readily be determined, the ~~defendant may be tried~~ trial may be in the county where
14 the body is found.

15 (6) If an offense is commenced outside the state and is consummated within
16 the state, the ~~defendant may be tried~~ trial may be in the county where the offense
17 was consummated.

18 (8) In an action for a violation of s. 948.31, the ~~defendant may be tried~~ trial may
19 be in the county where the crime was committed or the county of lawful residence of
20 the child.

21 (9) (intro.) In an action under s. 301.45 (6) (a) or (ag), the ~~defendant may be tried~~
22 trial may be in the defendant's county of residence at the time that the complaint is
23 filed. If the defendant does not have a county of residence in this state at the time
24 that the complaint is filed, or if the defendant's county of residence is unknown at the

1 time that the complaint is filed, ~~defendant may be tried~~ trial may be in any of the
2 following counties:

3 (10) In an action under s. 30.547 for intentionally falsifying an application for
4 a certificate of number, a registration or a certificate of title, the ~~defendant may be~~
5 ~~tried~~ trial may be in the defendant's county of residence at the time that the
6 complaint is filed, in the county where the defendant purchased the boat if purchased
7 from a dealer, or the county where the department of natural resources received the
8 application.

9 (11) In an action under s. 943.201, the ~~defendant may be tried~~ trial may be in
10 the county where the victim or intended victim resided at the time of the offense or
11 in any other county designated under this section. In an action under s. 943.203, the
12 ~~defendant may be tried~~ trial may be in the county where the victim or intended victim
13 was located at the time of the offense or in any other county designated under this
14 section.

15 (12) Except as provided in s. ~~971.223~~ 971.72, in an action for a violation of chs.
16 5 to 12, subch. III of ch. 13, or subch. III of ch. 19, or for a violation of any other law
17 arising from or in relation to the official functions of the subject of the investigation
18 or any matter that involves elections, ethics, or lobbying regulation under chs. 5 to
19 12, subch. III of ch. 13, or subch. III of ch. 19 a ~~defendant who is~~ trial for a resident
20 of this state shall be ~~tried in circuit~~ the court for the county where the ~~defendant~~
21 person resides. For purposes of this subsection, a person other than a natural person
22 resides within a county if the person's principal place of operation is located within
23 that county.

1 **SECTION 868.** 971.20 (title), (1), (2), (4), (5), (6), (7), (8), (9), (10) and (11) of the
2 statutes are renumbered 967.16 (title), (1), (2), (3), (4), (5), (6), (7), (8), (9) and (10),
3 and 967.16 (2), (3), (8) and (9), as renumbered, are amended to read:

4 **967.16 (2) ONE SUBSTITUTION.** In any criminal action, the defendant has a right
5 to only one substitution of a judge, except under sub. ~~(7)~~ (6). The right of substitution
6 shall be exercised as provided in this section.

7 **(3) SUBSTITUTION OF TRIAL JUDGE ORIGINALLY ASSIGNED.** A written request for the
8 substitution of a different judge for the judge originally assigned to the trial of the
9 action may be filed with the clerk before making any motions to the trial court and
10 before ~~arraignment~~ entry of a plea.

11 **(8) JUDGE'S AUTHORITY TO ACT.** Upon the filing of a request for substitution in
12 proper form and within the proper time, the judge whose substitution has been
13 requested has no authority to act further in the action except to conduct the initial
14 appearance, accept pleas, and set ~~bail~~ conditions of release.

15 **(9) FORM OF REQUEST.** A request for substitution of a judge may be made in the
16 following form:

17 STATE OF WISCONSIN

18 CIRCUIT COURT

19 County

20 State of Wisconsin

21 vs.

22 (Defendant)

23 Pursuant to s. ~~971.20~~ 967.16 the defendant (or defendants) request (s) a
24 substitution for the Hon. as judge in the above entitled action.

25 Dated, (year)

1 ...(Signature of defendant or defendant's attorney)

2 **SECTION 869.** 971.20 (3) of the statutes is repealed.

3 **SECTION 870.** 971.22 of the statutes is renumbered 971.70 and amended to
4 read:

5 **971.70 Change of place of trial.** (1) The defendant may move ~~for a~~ to change
6 of the place of trial on the ground that an impartial trial cannot be had in the county.
7 ~~The motion shall be made at arraignment, but it may be made thereafter for cause.~~

8 (2) The motion shall be in writing and supported by an affidavit ~~which shall~~
9 ~~state~~ stating evidentiary facts showing the nature of the prejudice alleged. The
10 district attorney may file counter affidavits.

11 (3) If the court determines that ~~there exists~~ prejudice in the county where the
12 action is pending ~~such prejudice that will prevent a fair trial cannot be had~~, it shall
13 ~~order that~~ conduct the trial be held in any county where an impartial a fair trial can
14 be had. ~~Only one change may be granted under this subsection. The judge who~~
15 ~~orders the change in the place of trial shall preside at the trial. Preliminary matters~~
16 ~~prior to trial may be conducted in either county at the discretion of the court. The~~
17 ~~judge or, if the requirements under s. 971.71 (1) are satisfied, order the selection of~~
18 a jury from another county under s. 971.71 (2). If the court conducts the trial in
19 another county, it shall determine where the defendant, if he or she is in custody,
20 shall be held and where the record shall be kept. ~~If the criteria under s. 971.225 (1)~~
21 ~~(a) to (c) exist, the court may proceed under s. 971.225 (2) The court, in its discretion,~~
22 may conduct pretrial matters in either county.

23 **SECTION 871.** 971.223 of the statutes is renumbered 971.72, and 971.72 (3) and
24 (4), as renumbered, are amended to read:

SECTION 871

1 971.72 (3) This section does not affect which prosecutor has responsibility
2 under s. 978.05 (1) to prosecute criminal actions ~~arising from violations~~ described
3 under sub. (1).

4 (4) This section does not affect the application of s. ~~971.22~~ 971.70. In actions
5 described under sub. (1), the court may enter an order under s. ~~971.225~~ 971.71 only
6 if the order is agreed to by the defendant.

7 **SECTION 872.** 971.225 (title) of the statutes is renumbered 971.71 (title).

8 **SECTION 873.** 971.225 (1) (intro.), (a) and (c) of the statutes are renumbered
9 971.71 (1) (intro.), (a) and (b), and 971.71 (1) (intro.) and (a), as renumbered, are
10 amended to read:

11 971.71 (1) (intro.) ~~In lieu of~~ If there are grounds for changing the place of trial
12 under s. ~~971.22 (3) or 971.223~~ 971.70 (3) or 971.72 and all of the following conditions
13 are satisfied, the court may require the selection of a jury under sub. (2) if:

14 (a) The court has decided to sequester the jurors after the commencement of
15 the trial, as provided in s. ~~972.12;~~ 972.05.

16 **SECTION 874.** 971.225 (1) (b) of the statutes is repealed.

17 **SECTION 875.** 971.225 (2) of the statutes is renumbered 971.71 (2) and amended
18 to read:

19 971.71 (2) If the court decides to proceed under this section it shall follow the
20 procedure under s. ~~971.22~~ 971.70 until the jury is chosen in the 2nd county. At that
21 time, the proceedings shall return to the original county using the jurors selected in
22 the 2nd county. The original county shall reimburse the 2nd county for all applicable
23 costs under s. 814.22.

24 **SECTION 876.** 971.23 (title) of the statutes is repealed.

1 **SECTION 877.** 971.23 (1) (intro.) of the statutes is renumbered 971.43 (2) (intro.)
2 and amended to read:

3 971.43 (2) ~~WHAT A DISTRICT ATTORNEY MUST DISCLOSE TO A DEFENDANT~~ MATERIAL
4 TO BE DISCLOSED. (intro.) ~~Upon demand, the~~ The district attorney shall, ~~within a~~
5 ~~reasonable time before trial,~~ disclose to the ~~defendant or his or her attorney~~ defense
6 the following material and information, not previously disclosed before or at the
7 initial appearance, and permit the ~~defendant or his or her attorney~~ to inspect and
8 ~~copy or photograph all of the following materials and information, if it is within the~~
9 ~~possession, custody or control of the state~~ inspection, copying, testing, and
10 photographing of disclosed documents or tangible objects:

11 **SECTION 878.** 971.23 (1) (a) of the statutes is renumbered 971.43 (2) (a) and
12 amended to read:

13 971.43 (2) (a) Any written or recorded statement concerning the alleged crime
14 made by the defendant, including the testimony of the defendant ~~in a secret~~
15 ~~proceeding under s. 968.26~~ at an inquest or before a grand jury, and the names of
16 witnesses to the defendant's written statements.

17 **SECTION 879.** 971.23 (1) (b) of the statutes is renumbered 971.43 (2) (c) and
18 amended to read:

19 971.43 (2) (c) A written summary of all oral statements of the defendant ~~which~~
20 that the district attorney plans to use ~~in the course of the~~ at trial and the names of
21 witnesses to the defendant's oral statements.

22 **SECTION 880.** 971.23 (1) (bm) of the statutes is renumbered 971.43 (2) (d) and
23 amended to read:

24 971.43 (2) (d) Evidence obtained in the manner described under s. ~~968.31~~
25 968.345 (2) (b), if the district attorney intends to use the evidence at trial.

1 **SECTION 881.** 971.23 (1) (c) of the statutes is renumbered 971.43 (2) (g).

2 **SECTION 882.** 971.23 (1) (d) of the statutes is renumbered 971.45 and amended
3 to read:

4 **971.45 Witness lists.** ~~A- Upon demand by the other party, a party shall~~
5 ~~provide a list of all witnesses and their addresses whom the district attorney he or~~
6 ~~she intends to call at the trial. The list shall include each witness's name and address~~
7 ~~and shall be provided not less than 10 days before trial or at another time set by the~~
8 ~~court. This paragraph section does not apply to rebuttal witnesses or those witnesses~~
9 called for impeachment only.

10 **SECTION 883.** 971.23 (1) (e) of the statutes is renumbered 971.46 (2) and
11 amended to read:

12 **971.46 (2)** ~~Any relevant written or recorded statements of a witness named on~~
13 ~~a list under par. (d), including any audiovisual recording of an oral statement of a~~
14 ~~child under s. 908.08, Furnish any reports or statements of experts made in~~
15 connection with the case or, if an expert does not prepare a report or statement, a
16 written summary of the expert's findings or the subject matter of his or her testimony,
17 and the results of any physical or mental examination, scientific test, experiment,
18 or comparison that the ~~district attorney~~ party intends to offer in evidence at trial.

19 **SECTION 884.** 971.23 (1) (f) of the statutes is renumbered 971.43 (2) (i) and
20 amended to read:

21 **971.43 (2) (i)** The criminal record of a ~~prosecution witness which is, and if~~
22 known to the district attorney, any pending charges against, any person whom the
23 district attorney intends to call as a trial witness.

24 **SECTION 885.** 971.23 (1) (g) of the statutes is renumbered 971.43 (2) (j) and
25 amended to read:

1 971.43 (2) (j) Any physical evidence that the district attorney intends to offer
2 ~~in evidence~~ at the trial.

3 **SECTION 886.** 971.23 (1) (h) of the statutes is renumbered 971.43 (2) (k).

4 **SECTION 887.** 971.23 (2m) (intro.) of the statutes is renumbered 971.44 (2)
5 (intro.) and amended to read:

6 971.44 (2) ~~WHAT A DEFENDANT MUST DISCLOSE TO THE DISTRICT ATTORNEY~~ MATERIAL
7 ~~TO BE DISCLOSED.~~ (intro.) ~~Upon demand, the defendant or his or her attorney~~ The
8 ~~defense~~ shall, ~~within a reasonable time before trial,~~ disclose to the district attorney
9 ~~and permit the district attorney to inspect and copy or photograph all of the following~~
10 ~~materials~~ material and information, ~~if it is within the possession, custody or control~~
11 ~~of the defendant and permit inspection, copying, testing, and photographing of~~
12 ~~disclosed documents or tangible objects:~~

13 **SECTION 888.** 971.23 (2m) (a) of the statutes is repealed.

14 **SECTION 889.** 971.23 (2m) (am) of the statutes is repealed.

15 **SECTION 890.** 971.23 (2m) (b) of the statutes is renumbered 971.44 (2) (b) and
16 amended to read:

17 971.44 (2) (b) ~~The~~ If known to the defense, the criminal record of ~~a~~ any person
18 ~~whom the defense intends to call as a trial~~ witness, other than the defendant, ~~which~~
19 ~~is known to the defense attorney.~~

20 **SECTION 891.** 971.23 (2m) (c) of the statutes is renumbered 971.44 (2) (c) and
21 amended to read:

22 971.44 (2) (c) Any physical evidence that the ~~defendant~~ defense intends to offer
23 ~~in evidence~~ at the trial.

24 **SECTION 892.** 971.23 (3) of the statutes is renumbered 971.54 and amended to
25 read:

1 **971.54 ~~Comment or instruction on failure to call witness~~ Failure to use**
2 **disclosed material at trial.** ~~No comment or instruction~~ The fact that a party has
3 indicated during the discovery process an intention to offer specified evidence or to
4 call a specified witness is not admissible in evidence at a hearing or trial. If a party
5 fails to offer such evidence or call such a witness, neither the court nor any other
6 party or witness may make any statement regarding the ~~that failure to call a witness~~
7 ~~at the trial shall be made or given~~ if the sole basis for such comment or instruction
8 the statement is the fact ~~that~~ the evidence or name of the witness ~~appears upon a list~~
9 furnished pursuant to this section was disclosed under this subchapter.

10 **SECTION 893.** 971.23 (5) of the statutes is renumbered 971.48 (1) and amended
11 to read:

12 971.48 (1) ~~SCIENTIFIC TESTING.~~ Upon motion of a ~~by either~~ party subject to
13 ~~s. 971.31 (5),~~ the court may order the production of any item of physical evidence
14 which ~~that~~ is intended to be introduced at the trial for scientific analysis under such
15 terms and conditions as the court prescribes.

16 **SECTION 894.** 971.23 (5c) (title) of the statutes is repealed.

17 **SECTION 895.** 971.23 (5c) of the statutes is renumbered 971.58 (1).

18 **SECTION 896.** 971.23 (6) (title) of the statutes is renumbered 971.52 (title) and
19 amended to read:

20 **971.52 (title) Protective order orders, other special procedures.**

21 **SECTION 897.** 971.23 (6) of the statutes is renumbered 971.52 (1) and amended
22 to read:

23 971.52 (1) Upon motion of a party, the court may at any time order that
24 ~~discovery, inspection or the listing of witnesses~~ required under this section
25 subchapter be denied, restricted, or deferred, or make other appropriate orders.

1 (2) If the district attorney or defense counsel certifies that ~~to list~~ listing a
2 witness under s. 971.45 may subject the witness or others to physical or economic
3 harm or coercion, the court may order that the deposition of the witness be taken
4 pursuant to s. ~~967.04 (2) to (6)~~ 967.21. The name of the witness need not be divulged
5 prior to the taking of such deposition. If the witness becomes unavailable or changes
6 his or her testimony, the deposition shall be admissible at trial as substantive
7 evidence.

8 **SECTION 898.** 971.23 (6c) (title) of the statutes is repealed.

9 **SECTION 899.** 971.23 (6c) of the statutes is renumbered 971.58 (2) and amended
10 to read:

11 971.58 (2) Except as provided in s. ~~967.04~~ 967.21, the defendant or his or her
12 attorney may not compel a victim of a crime to submit to a pretrial interview or
13 deposition.

14 **SECTION 900.** 971.23 (6m) of the statutes is renumbered 971.53 and amended
15 to read:

16 **971.53 In camera proceedings.** ~~Either Upon motion of a party, the court may~~
17 ~~move for~~ conduct an in camera inspection ~~by the court~~ of any document required to
18 be disclosed under sub. (1) or (2m) ~~for the purpose of masking or deleting any~~
19 ~~material which is not relevant to the case being tried. The court shall mask or delete~~
20 ~~any irrelevant material s. 971.035, 971.43, or 971.44. Any in camera proceeding shall~~
21 be reported and the court shall enter any order necessary to preserve the
22 confidentiality of the record. The original or a copy of any material that is not
23 disclosed shall be sealed and preserved as part of the record.

24 **SECTION 901.** 971.23 (7) of the statutes is renumbered 971.50 and amended to
25 read:

1 **971.50 Continuing duty to disclose.** If, ~~subsequent to compliance after~~
2 ~~complying~~ with a requirement of this ~~section~~ chapter, and ~~prior to before~~ or during
3 trial, a party discovers additional material or the names of additional witnesses
4 ~~requested which that~~ are subject to discovery, inspection, or production under this
5 ~~section~~ subchapter, the party shall promptly notify the other party of the existence
6 of the additional material or names.

7 **SECTION 902.** 971.23 (7m) (a) of the statutes is renumbered 971.55 and
8 amended to read:

9 **971.55 Remedies for noncompliance.** The court shall exclude any witness
10 not listed, any expert as to whom the requirements of s. 971.46 were not met, or
11 evidence not presented for inspection, testing, or copying required by this ~~section~~
12 subchapter, unless good cause is shown for failure to comply. ~~The court may in In~~
13 appropriate cases, the court may grant the opposing party a recess or a continuance.

14 **SECTION 903.** 971.23 (7m) (b) of the statutes is repealed.

15 **SECTION 904.** 971.23 (8) (title) of the statutes is renumbered 971.44 (4) (title).

16 **SECTION 905.** 971.23 (8) (a) of the statutes is renumbered 971.44 (4) and
17 amended to read:

18 971.44 (4) If the ~~defendant~~ defense intends to ~~rely upon an alibi as a defense~~,
19 ~~the defendant shall give notice to~~ call witnesses other than the defendant to support
20 a defense of alibi, the defense shall notify the district attorney ~~at the arraignment~~
21 ~~or of that intent~~ at least 30 days before trial, stating particularly the place where the
22 defendant claims to have been when the crime is alleged to have been committed
23 ~~together with and~~ the names and addresses of witnesses to the alibi, ~~if known~~. If at
24 the close of the state's case ~~the defendant withdraws the alibi or if at the close of the~~
25 defendant's case ~~the defendant does not call some or any of the alibi witnesses, the~~

1 ~~state shall not comment on the defendant's withdrawal or on the failure to call some~~
2 ~~or any of the alibi witnesses. The state shall not call any alibi witnesses not called~~
3 ~~by the defendant for the purpose of impeaching the defendant's credibility with~~
4 ~~regard to the alibi notice. Nothing in this section may prohibit the state from calling~~
5 ~~said alibi witnesses for any other purpose~~ whom the defense intends to call at trial.

6 **SECTION 906.** 971.23 (8) (b) of the statutes is repealed.

7 **SECTION 907.** 971.23 (8) (c) of the statutes is repealed.

8 **SECTION 908.** 971.23 (8) (d) of the statutes is renumbered 971.43 (5) and
9 amended to read:

10 971.43 (5) ALIBI REBUTTAL. ~~Within 20 days after receipt of the~~ If the defendant
11 has provided notice of an alibi, ~~or such other time as the court orders~~ defense under
12 s. 971.44 (4), the district attorney shall furnish the defendant notice in writing of,
13 within 20 days after receipt of such notice unless otherwise provided in the
14 scheduling order, disclose the names and addresses, if known, of any witnesses whom
15 the state proposes to offer in rebuttal to discredit the defendant's alibi. ~~In default of~~
16 ~~such notice, no rebuttal evidence on the alibi issue shall be received unless the court,~~
17 ~~for cause, orders otherwise~~ district attorney intends to call in rebuttal to discredit the
18 defendant's alibi.

19 **SECTION 909.** 971.23 (8) (e) of the statutes is repealed.

20 **SECTION 910.** 971.23 (9) of the statutes is renumbered 971.47 and amended to
21 read:

22 **971.47 Deoxyribonucleic acid evidence.** (1) In this subsection section,
23 "deoxyribonucleic acid profile" has the meaning given in s. 939.74 (2d) (a).

24 (2) Notwithstanding sub. (1) (e) or (2m) (am), if either s. 971.46, a party who
25 intends to ~~submit~~ offer deoxyribonucleic acid profile evidence at a trial to prove or

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1 disprove the identity of a person, ~~the party seeking to introduce the evidence~~ shall
2 notify the other party ~~of the intent to introduce the evidence in writing~~ by mail at
3 least 45 days before the date set for trial; ~~and shall provide the other party of his or~~
4 her intent to offer the evidence and, within 15 days of after receiving a request, the
5 from the other party, shall provide him or her the information and material identified
6 under sub. (1) (e) or (2m) (am), whichever is appropriate, described in s. 971.46 that
7 relates to the evidence.

8 (3) The court shall exclude deoxyribonucleic acid profile evidence at trial, if the
9 notice and production deadlines under ~~par. (b)~~ sub. (2) are not met, except the court
10 may waive the 45 day notice requirement or may extend the 15 day production
11 requirement upon stipulation of the parties, or for good cause, if the court finds that
12 no party will be prejudiced by the waiver or extension. ~~The court may in In~~
13 appropriate cases the court may grant the opposing party a recess or continuance.

14 **SECTION 911.** 971.23 (10) (title) of the statutes is repealed.

15 **SECTION 912.** 971.23 (10) of the statutes is renumbered 971.51 (2).

16 **SECTION 913.** 971.23 (11) of the statutes is renumbered 971.515, and 971.515

17 (1) (intro.) and (a), (3) (a) and (b) and (4), as renumbered, are amended to read:

18 971.515 (1) (intro.) In this ~~subsection~~ section:

19 (a) “Defense” means the defendant, his or her attorney, and any individual
20 retained by the defendant or his or her attorney for the purpose of providing
21 testimony if the testimony is expert testimony that relates to an item or material
22 included under ~~par. (b)~~ sub. (2).

23 (3) (a) Notwithstanding ~~sub. (1) (e) and (g)~~ s. 971.43 (2) (j), a court shall deny
24 any request by the defense to provide, and a district attorney or law enforcement
25 agency may not provide to the defense, any item or material required in ~~par. (b)~~ sub.

(2) to remain in the possession, custody, and control of a law enforcement agency or court, except that a court may order that a copy of an item or material included under ~~par. (b)~~ sub. (2) be provided to the defense if that court finds that a copy of the item or material has not been made reasonably available to the defense. The defense shall have the burden to establish that the item or material has not been made reasonably available.

(b) If a court orders under ~~subd. 1. par. (a)~~ a copy of an item or material included under ~~par. (b)~~ sub. (2) to be provided to the defense, the court shall enter a protective order under ~~sub. (6)~~ s. 971.52 (1) that includes an order that the copy provided to the defense may not be copied, printed, or disseminated by the defense and shall be returned to the court or law enforcement agency, whichever is appropriate, at the completion of the trial.

(4) Any item or material that is required under ~~par. (b)~~ sub. (2) to remain in possession, custody, and control of a law enforcement agency or court is not subject to the right of inspection or copying under s. 19.35 (1).

SECTION 914. 971.26 of the statutes is renumbered 970.11.

SECTION 915. 971.27 of the statutes is renumbered 970.12 and amended to read:

970.12 Lost information, or destroyed complaint or indictment. ~~In the case of the loss or destruction of an information or complaint~~ If a complaint is lost or destroyed, the district attorney may file a copy, ~~and the prosecution shall proceed without delay from that cause.~~ ~~In the case of the loss or destruction of an indictment, an information may be filed~~ which shall have the same effect as the original.

SECTION 916. 971.29 (title) of the statutes is renumbered 970.09 (title) and amended to read:

1 **970.09 (title) Amending the charge complaint.**

2 **SECTION 917.** 971.29 (1) of the statutes is renumbered 970.09 (1) and amended
3 to read:

4 970.09 (1) ~~A complaint or information may be amended at any time prior to~~
5 ~~arraignment~~ At any time before the defendant enters a plea, the district attorney
6 may amend the complaint without leave of the court.

7 **SECTION 918.** 971.29 (2) of the statutes is renumbered 970.09 (3) and amended
8 to read:

9 970.09 (3) ~~At the trial, the~~ The court may allow amendment of the district
10 attorney to amend the complaint, ~~indictment or information at trial~~ to conform to the
11 proof where such amendment is not prejudicial to the defendant.

12 (4) After verdict the ~~pleading~~ complaint shall be deemed amended as to
13 technical variances to conform to the proof if no objection to the relevance of the
14 evidence was timely raised upon the trial.

15 **SECTION 919.** 971.29 (3) of the statutes is repealed.

16 **SECTION 920.** 971.30 (title) and (1) of the statutes are repealed.

17 **SECTION 921.** 971.30 (2) (intro.), (a), (b) and (c) of the statutes are consolidated,
18 renumbered 971.65 (1) and amended to read:

19 971.65 (1) GENERALLY. Any motion that is capable of determination before trial
20 may be made before trial. Unless otherwise provided or ordered by the court, all
21 ~~motions~~ the motion shall ~~meet the following criteria:~~ (a) ~~Be~~ be in writing. (b) ~~Contain~~
22 and contain a caption setting forth the name of the court, the venue, the title of the
23 action, the file number, and a denomination of the party seeking the order or relief
24 ~~and a brief description of the type of order or relief sought.~~ (c) ~~State.~~ The motion

1 shall state with particularity the grounds for the motion and the order or relief
2 sought.

3 **SECTION 922.** 971.31 (title) of the statutes is repealed.

4 **SECTION 923.** 971.31 (1) of the statutes is repealed.

5 **SECTION 924.** 971.31 (2) of the statutes is renumbered 971.65 (3) and amended
6 to read:

7 971.65 (3) PARTICULAR ISSUES TO BE RAISED. ~~Except as provided in sub. (5),~~
8 ~~defenses~~ Defenses and objections based on defects in the institution of the
9 proceedings, insufficiency of the complaint, ~~information~~ or indictment, invalidity in
10 whole or in part of the statute on which the prosecution is ~~founded~~ based, or the use
11 of illegal means to secure evidence shall be raised before trial by a motion or be
12 deemed waived. The court may, however, entertain such a motion at the trial, in
13 which case the defendant waives any jeopardy that may have attached. ~~The motion~~
14 ~~to suppress evidence shall be so entertained with waiver of jeopardy when it appears~~
15 ~~that the defendant is surprised by the state's possession of such evidence.~~

16 **SECTION 925.** 971.31 (3) of the statutes is renumbered 972.18 (2) and amended
17 to read:

18 972.18 (2) The admissibility of any statement of the defendant shall be
19 determined at the trial by the court in an evidentiary hearing out of the presence of
20 the jury, unless the ~~defendant, by motion, challenges the~~ court ruled on admissibility
21 of ~~such~~ the statement before trial.

22 **SECTION 926.** 971.31 (4) of the statutes is renumbered 971.65 (4) and amended
23 to read:

24 971.65 (4) DECIDING MOTIONS BEFORE AND AT TRIAL. ~~Except as provided in sub.~~
25 ~~(3), a motion shall be determined before trial of the general issue~~ Before trial, the

1 court shall determine each motion made under this section unless the court orders
2 that it be deferred for determination at the trial. All issues of fact arising out of ~~such~~
3 the motion shall be tried ~~determined~~ by the court without a jury.

4 **SECTION 927.** 971.31 (5) of the statutes is repealed.

5 **SECTION 928.** 971.31 (6) of the statutes is renumbered 971.65 (5) and amended
6 to read:

7 971.65 (5) CUSTODY AFTER DISMISSAL. If the court grants a motion to dismiss
8 based upon a defect in the ~~indictment, information commencement of the prosecution~~
9 or in the complaint, ~~or in the institution of the proceedings,~~ it may, upon a showing
10 that probable cause exists to believe that the defendant has committed a crime, order
11 that the defendant be held in custody ~~or that the defendant's bail be continued~~ for
12 not more than ~~72~~ 48 hours ~~pending issuance of a new summons or warrant or that~~
13 the conditions of release be continued for a specified time pending the filing of a new
14 ~~indictment, information or~~ complaint.

15 **SECTION 929.** 971.31 (7) of the statutes is repealed.

16 **SECTION 930.** 971.31 (8) of the statutes is repealed.

17 **SECTION 931.** 971.31 (9) of the statutes is renumbered 967.15 and amended to
18 read:

19 **967.15 Service upon defendant.** A pleading, notice, motion, or other
20 document required to be served on a defendant may be served upon the defendant's
21 attorney of record.

22 **SECTION 932.** 971.31 (10) of the statutes is renumbered 971.085 (1) (a) and
23 amended to read:

24 971.085 (1) (a) An order denying a motion to suppress evidence or a motion
25 challenging the admissibility of a statement of a defendant ~~may be reviewed upon~~

1 ~~appeal from a final judgment or order notwithstanding the fact that the judgment~~
2 ~~or order was entered upon a plea of guilty or no contest to the information or criminal~~
3 ~~complaint.~~

4 **SECTION 933.** 971.31 (11) of the statutes is renumbered 971.65 (6) and amended
5 to read:

6 971.65 (6) PRIOR SEXUAL CONDUCT EVIDENCE. In actions under s. 940.225, 948.02,
7 948.025, 948.05, 948.051, 948.06, 948.085, or 948.095, or under s. 940.302 (2), if the
8 court finds that the crime was sexually motivated, as defined in s. 980.01 (5),
9 evidence ~~which~~ that is admissible under s. ~~972.11 (2)~~ 904.045 must be determined
10 by the court upon pretrial motion to be material to a fact at issue in the case and of
11 sufficient probative value to outweigh its inflammatory and prejudicial nature
12 before it may be introduced at trial.

13 **SECTION 934.** 971.31 (12) of the statutes is renumbered 971.65 (7) and amended
14 to read:

15 971.65 (7) EVIDENCE OF PERSONAL OR MEDICAL HISTORY. In actions under s.
16 940.22, the court may determine the admissibility of evidence under s. ~~972.11~~ 940.22
17 (6) only upon a pretrial motion.

18 **SECTION 935.** 971.31 (13) of the statutes is renumbered 971.77, and 971.77 (2),
19 as renumbered, is amended to read:

20 971.77 (2) The court shall retain jurisdiction unless the juvenile proves by a
21 preponderance of the evidence that he or she did not commit the violation under the
22 circumstances described in s. 938.183 (1) (b) or (c), whichever is applicable, or that
23 transfer would be appropriate because all of the factors specified in ~~par. (a) 1., 2. and~~
24 3. sub. (1) (a), (b), and (c) are met.